

Maritime Administration, DOT

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(b)(9) of this section, except obligations otherwise a part of the graduate Reserve officer status;

(C) Grant or deny a waiver of the requirements of the service agreement in hardship cases.

(ii)(A) If a student or graduate disagrees with the decision of the designated official, the student or graduate may appeal that decision to the Maritime Administrator. The appeal must set forth all the legal and factual grounds on which the student or graduate bases the appeal. Any grounds not set forth in the appeal are waived.

(B) Appeals must be filed with the Maritime Administrator within 30 calendar days of the date of receipt by such student or graduate of the written decision of the designated official. Appeals must be filed at the Office of the Secretary, Maritime Administration, Room 7210, 400 7th St., SW., Washington, DC 20590. Each decision will include a notice of appeal rights.

(C) A decision is deemed to be received by a student or graduate five (5) working days after the date it is mailed by first class mail, postage prepaid, to the address for such student or graduate listed with the Office of Maritime Labor, Training, and Safety. It is the responsibility of such student or graduate to ensure that their current mailing address is on file with the Office of Maritime Labor, Training, and Safety, Room 7302, 400 7th St., SW., Washington, DC 20590.

(D) If the appeal is sent by conventional mail (through the United States Postal Service), the date of filing is determined by the postmark date. If no legible postmark date appears on the mailing, the appeal is deemed to be filed five (5) working days before the date of its receipt in the Office of the Secretary. If delivered by other than the United States Postal Service, an appeal is filed with the Maritime Administrator on the date it is physically delivered to the Office of the Secretary at the address referenced in paragraph (b)(10)(ii)(B) of this section. The date of filing by commercial delivery (not United States Postal Service) is the date it is received at the address for the Office of the Secretary set forth in paragraph (b)(10)(ii)(B) of this section. Appeals may not be submitted by fac-

simile or by electronic mail. Requests for extension of the time to file an appeal may be submitted by facsimile or electronic mail to the Office of the Secretary. Requests for extension of time do not stop or toll the running of the time for filing an appeal. Appeals may only be filed after the deadline if the Maritime Administrator or his designee, in their sole discretion, grants an extension.

(E) In computing the number of days, the first day counted is the day after the event from which the time period begins to run. If the date that ordinarily would be the last day for filing falls on a Saturday, Sunday, or Federal holiday, the filing period will include the first workday after that date.

Example to paragraph (b)(10)(ii)(E): If a graduate receives a decision on July 1, the 30-day period for filing an appeal starts to run on July 2. The appeal would ordinarily be timely only if postmarked on or physically delivered by July 31. If July 31 is a Saturday, however, the last day for obtaining a postmark by mailing or physical delivery would be Monday, August 2.

(iii) The Maritime Administrator will issue a written decision for each timely appeal. This decision constitutes final agency action.

(iv) If a student or graduate fails to appeal within the time set forth in paragraph (b)(10)(ii) of this section, the decision of the designated official will be final and constitute final agency action.

[46 FR 37694, July 22, 1981, as amended at 48 FR 24080, May 31, 1983; 49 FR 13365, Apr. 4, 1984; 65 FR 39558, June 27, 2000; 66 FR 36176, July 11, 2001]

§ 310.8 Leave.

(a) *Enrolled before April 1, 1982.* Limitations on cadet leave, without loss of Federal student subsistence, with the specific limits to be set at the discretion of the Superintendent on an academic year basis, are:

(1) If hospitalized, sick at home, or confined in the sick bay, leave shall not exceed four (4) months.

(2) For an emergency due to the serious illness, injury or death of a very near relative, leave shall not exceed seven (7) days.

(3) Annual leave shall not exceed thirty (30) days.

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(4) Christmas and Easter leave shall not exceed a total of twelve (12) days, and leave may be granted for all legal holidays—Federal and state. This leave is in addition to that granted in paragraph (a)(3) of this section.

(5) Leave in addition to that provided in paragraphs (a) (3) and (4) of this section may be granted only if approved in advance by the Supervisor, upon direct request by the Superintendent.

(b) *Enrolled on or after April 1, 1982.* Midshipmen will be granted leave without loss of incentive payments as follows:

(1) Medical leave, as authorized by the school, not to exceed four (4) months.

(2) Christmas and Easter leave and all legal holidays—Federal and state—as authorized by the school. This leave is in addition to that granted in paragraph (b)(3) of this section.

(3) Excused absences, as authorized by the school, not to exceed thirty (30) days per academic year. All unauthorized leave and all excused absences in excess of thirty (30) days will result in loss of incentive payments. Midshipmen receiving student incentive payments may be granted leaves of absence without pay, as approved by the Superintendent, for periods not to exceed one (1) academic year at a time. Midshipmen in a pay status will only be granted a leave of absence if they continue to meet all requirements for graduation in this part, including age requirements.

[48 FR 24081, May 31, 1983]

§310.9 Medical attention and injury claims.

(a) *Medical attention and hospitalization.* The school shall be responsible for arranging that a medical officer shall be attached or on call to the school. During the cruise, the School shall assign a medical officer to the Training Ship.

(b) *Compensation claims of Cadets or Midshipmen.* Compensation claims for personal injuries or death sustained by a federally-assisted cadet or midshipman in the performance of official duty shall be forwarded to the Supervisor for transmission to the Office of Workers' Compensation Programs. The

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Supervisor shall furnish necessary forms.

(c) *Medical care and compensation for Officers and other personnel.* Officers and other personnel of the School, and of the Training Ship may avail themselves of any medical facilities furnished by the State or Federal Government for which they qualify. See, for example, 42 CFR part 32. Such persons who are not Federal employees shall look to the State alone for pay, allowances, compensation and other benefits during injury or illness.

[46 FR 37694, July 22, 1981, as amended at 48 FR 24081, May 31, 1983]

§310.10 Discipline and dismissal.

(a) Each School shall establish and publish rules and regulations governing Cadet and Midshipman discipline and providing for a demerit system for infractions of these rules and regulations. Serious or excessive violations of the rules and regulations by a Cadet or Midshipman may be considered as evidence of inaptitude for the demanding career of a merchant marine officer and warrant dismissal by the school.

(b) Each Cadet or Midshipman shall, upon admission to the School, be furnished a copy of the School's rules and regulations.

(c) Any Cadet or Midshipman placed on probation for failure to meet the conduct requirements of the school may, at the discretion of the Superintendent, be listed as not in good standing for any period not to exceed six (6) months for the purpose of §310.7(a)(5).

§310.11 Cadet uniforms.

Cadet uniforms shall be supplied at the school in accordance with the uniform regulations of the School. Those regulations shall prescribe a distinctive insignia or device approved by the Maritime Administrator.

§310.12 Scope and effect.

(a) If any provisions of this subpart conflict with laws and regulations of the State, the appropriate State authorities shall notify the Maritime Administrator in writing of such conflict and pertinent circumstances. The Maritime Administrator, as a matter of discretion, shall take, or not take, any